BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Review of the Commission's Regulations Governing Television Broadcasting	))	MM Docket No. 91-221
	)	
Television Satellite Stations Review of Policy and Rules	))	MM Docket No. 87-7

TO: The Commission

COMMENTS OF BENEDEK BROADCASTING CORPORATION

Benedek Broadcasting Corporation[1/] ("Benedek") requests that the Commission modify its local ownership rules to permit, at a minimum, common ownership of television stations located in different Nielsen Designated Market Areas ("DMAs") and that it provide further relaxation in certain situations, particularly in smaller markets. This proposed standard will promote the public interest by better correlating the Commission's local ownership rules to the marketplace. It also will avoid the anomalous result of precluding common ownership of stations that would not otherwise compete simply because they have Grade A overlap.

I. THE COMMISSION SHOULD ALLOW COMMON OWNERSHIP OF STATIONS IN DIFFERENT DMAS EVEN IF THEY HAVE GRADE A CONTOUR OVERLAP.

To the extent a duopoly policy is necessary, the Commission can fulfill its goal of promoting diversity of

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1/ Benedek's wholly-owned subsidiary, Benedek License Corporation, owns and operates 22 full-power television stations located in smaller television markets. The total audience reach of the stations is less than 3%.

viewpoint and competition in the local television marketplace by simply limiting common ownership of stations in the same Nielsen Designated Market Area ("DMA"). DMAs provide an excellent benchmark for implementing the local ownership policy because they correspond to the actual geographic markets served, including areas reached by cable.

Indeed, as the Commission has acknowledged, "DMAs are designed to reflect actual household viewing patterns and advertising markets -- critical ingredients for determining a station's geographic market, both for competition and diversity purposes." Further Notice at ¶ 15. In addition, broadcasters use DMA data when selecting their programming, and advertisers do the same when setting their rates. Id. at ¶ 17. Thus, if two stations are situated in different DMAs, the Commission can and should be assured that they will not be competing with each other due to the structure of the market. Common ownership of stations that do not compete against one another is consistent with the Commission's policies in favor of diversity and competition.

Because DMAs are a "reasonable proxy" for actual television markets, id. at ¶ 14, the Commission generally should rely on these designations to determine whether stations can be commonly owned.[2/] It would defeat the

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[2/] Benedek recognizes that precluding common ownership of certain stations in the same DMA may not be in the public interest, particularly for stations in large DMAs that do not have any Grade A contour overlap.

objectives of the Commission's policies to require, in addition, that commonly owned stations have no Grade A contour overlap. Unlike DMAs, Grade A contours correspond to the signal quality of the station rather than the viewing patterns of the market. And there are several reasons, including terrain blockage, proximity to cities, and local demographics, why a station's signal contour may not correspond to its actual market. Thus, Grade A contour overlap should not be relied upon in implementing local ownership policies, particularly when requiring stations to be in different DMAs so well suits this purpose.[3/]

Furthermore, adding a Grade A overlap test to the separate DMA requirement could preclude the common ownership of stations that otherwise would serve the public interest. By way of example, Benedek currently owns two UHF stations located in separate DMAs but that have a slight Grade A overlap, as a result of a temporary waiver of the duopoly restriction.[4/] One station, WIFR (Ch. 23 CBS), is licensed in Freeport/Rockford, Illinois, (the 135th ranked DMA), and the other, WMTV (Ch. 15 NBC), is located in Madison, Wisconsin (the 84th ranked DMA). The small Grade A overlap occurs in the core market of WMTV (Madison, WI) but outside the core

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[3/] In at least some instances, Grade A contours cover areas only slightly smaller than those covered by Grade B contours.

[4/] This waiver was granted in the context of approving certain assignment applications relating to a transaction. See Brissette Broadcasting, 11 FCC Rcd 6319 (1996).

market of WIFR (Freeport/Rockford, IL). All of the residents of the small Grade A overlap area reside in counties that for many years have been solidly in the Madison DMA.

In this situation, common ownership does not diminish diversity or competition in the Grade A overlap area or otherwise because the two stations "indeed serve separate and distinct markets".[5] WMTV (Madison, WI) focuses on the Madison, Wisconsin, DMA, while WIFR (Freeport/Rockford, IL) attends to the needs of the Freeport/Rockford, Illinois, area. This is reflected by the fact that each station has its own market-oriented news and local programming, in addition to maintaining its own sales, programming and management team, and separate national sales representative.[6]

Market forces in general, and the impracticality of trying to serve two DMAs in particular, will ensure that these two stations remain diverse and distinct, even under common ownership. Specifically, each station competes most directly with other stations in its DMA, based in large part upon how its news and local programming address the needs of its community. If a station in Freeport/Rockford, for example, were to combine its newscast with a station in Madison, WI, its overall ratings in its DMA undoubtedly would decline. This is due to the fact that viewers in the Freeport/Rockford

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[5] Id. at 6322.

[6] The full facts underlying this situation are set forth in the waiver request and related filings.

area want to watch news that is relevant to their community of interest in Northern Illinois rather than a program that might significantly devote its coverage to Madison, the state capital of Wisconsin.

This principle in turn will protect the diversity of stations like WIFR and WMTV, regardless of whether they have common ownership, by creating market-based incentives to provide distinct programming within the separate DMAs. In the case of these two stations, this is already evident by the fact that WMTV's news facilities have been substantially upgraded and each station provides its own programming. Indeed, each station provided its own local coverage of the Superbowl, with WMTV sending its own sports reporter to provide coverage exclusively for the Benedek station in the Madison DMA. Thus, given these factors and the dynamics of the market, the Commission does not need to preclude common ownership of Grade A overlap stations that are in different DMAs.

II. THERE SHOULD BE EXCEPTIONS TO THE DUOPOLY RULE FOR UHF STATIONS AND IN MARKETS WHERE THERE IS AN EXISTING LMA.

Although requiring stations to be in separate DMAs is a good benchmark for implementing the Commission's local ownership policies, there are certain situations that merit further relaxation. Of particular importance, additional relief should be provided to permit common ownership of UHF stations as well as to assist stations competing in markets where there is an existing local marketing agreement ("LMA").

Furthermore, grant of this relief should not be limited to the larger market stations, since smaller market stations face their own challenges due to the substantially lower overall net advertising revenues in their markets.

A. **UHF-UHF Combinations**

The Commission should provide further relaxation of the common ownership rules for UHF stations, including those in smaller markets. This further relief is warranted because UHF stations still are at a competitive disadvantage compared to VHF stations, notwithstanding the emergence of additional national television networks and other developments in recent years.

Additionally, LMAs have proven that disadvantaged UHF stations can survive when they reap the benefits of certain economies of scale. By way of example, the Meridian, Mississippi, market consists of three full-power television stations -- two UHF stations and one VHF station, the latter of which is owned and operated by Benedek. For several years, the Benedek VHF station faced little effective competition because the UHF stations were not financially viable. However, when the two UHF stations entered into an LMA, they were able to provide spirited competition to the Benedek VHF station and more over-the-air outlets to the public. Because facilitating these types of synergies through LMAs serves the public interest, the Commission should make sure that these opportunities, and others like them, are not foreclosed under its new local ownership policies.

Finally, to the extent there are waivers or exceptions to the local ownership rules, they should be available to stations in smaller markets as well as those in larger markets.[7/] This is necessary because stations in smaller markets have a much lower advertising revenue base for which stations can compete. Thus, to be competitive, these stations may well need to enter relationships in order to reduce their overall costs.

B. Markets Where There Are Existing LMAs

As explained above, LMAs provide many benefits, including enabling otherwise dark stations to initiate or resume service. Thus, LMAs should be grandfathered by the Commission to the extent they would not be permissible under the new local ownership rules. However, LMAs unquestionably provide advantages to the participating stations that are not available to non-participating stations in the market. This in turn can place the non-participating stations at a significant competitive disadvantage.

As a consequence, the Commission should waive its local ownership rules, to the extent necessary, to permit other stations in the market to enter into relationships that will put them on a level playing field with stations that

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[7/] In particular, if the Commission adopts a market-share and minimum-number-of-voices waiver policy, it should not limit it to stations in larger markets.

already have LMAs in place. As with existing LMAs, this would promote the public interest by providing opportunities for other fledgling stations to improve their service and facilities. Moreover, since the opportunities are available to some stations in the market, it is only equitable to offer them to others.

III. CONCLUSION

The local ownership rules are intended to promote diversity and competition in the television marketplace. As explained herein, this goal can be accomplished by limiting common ownership only when stations are in the same DMA and providing additional relief to UHF stations and stations in markets where there are existing LMAs. Also, the inherent revenue limitations in smaller markets require that this additional relaxation be available to their stations. For these reasons, Benedek respectfully requests that the Commission adopt the local ownership proposals outlined herein.

Respectfully submitted,

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